

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
AT WINCHESTER

PHYLLIS MYERS,

)

Plaintiff

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v.

)

No. 4:03-cv-60

THE BRIDGESTONE/FIRESTONE  
LONG-TERM DISABILITY BENEFITS  
PLAN, and BRIDGESTONE/  
FIRESTONE AMERICAS HOLDING,  
INC., a subsidiary of BRIDGESTONE  
CORPORATION,

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Defendants

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**MEMORANDUM AND ORDER**

This matter is before the court on plaintiff's emergency motion requesting an order of contempt, finding of willful disobedience, and imposition of sanctions [Court File #62] based upon the failure of the defendant to continue to pay plaintiff's on-going disability benefits for 13 months between July 2005 and August 2006. Following the filing of this motion, defendants submitted the allegedly due benefits to the plaintiff.

Upon reviewing the record and hearing the arguments of counsel, the court finds that plaintiff has failed to demonstrate that a finding of contempt is in order and that defendants' conduct did not violate either this court's order and memorandum opinion of March 1, 2005, or the agreed order on judgment entered on May 12, 2005. Quite simply, those orders dealt only with plaintiff's entitlement to benefits for an earlier period.

However, the court finds that defendants violated the provision of the Plan beginning in September 2005 and continuing until August 2006, or a period of 11 months, by discontinuing plaintiff's benefits under the Plan. I find that plaintiff is entitled to an award of damages and attorney fees for that violation of the Plan. The court fixes plaintiff's damages at \$1,000 per month, or \$11,000, and \$500 per month in attorney fees, or \$5,500.

With respect to the continuation of benefits under the Plan, the parties are DIRECTED as follows:

(1) The correct amount of plaintiff's monthly benefit under the Plan is fixed at \$1,444.90. This amount reflects inclusion of a set-off for the plaintiff's monthly Social Security benefit of \$803.90.

(2) Plaintiff will make all appropriate submissions of updated medical reports as required quarterly under the Plan.

(3) Judgment will be entered in favor of the plaintiff in the amount of Eleven Thousand Dollars (\$11,000.00) in compensatory damages and Five Thousand, Five Hundred Dollars (\$5,500.00) in attorney fees.

Defendants will be afforded ten (10) days from the date of the entry of this order to submit any objection to the entry of judgment. Plaintiff be afforded ten (10) days thereafter to respond.

**E N T E R :**

*s/ James H. Jarvis*  
UNITED STATES DISTRICT JUDGE